

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RYAN C. FORD, a Minor, by and through :
his Guardian, GARY GOODEMOTÉ :
:
and :
:
ROBERT FORD and MAE FORD, :
Individually, :
Plaintiffs :
v. : CIVIL ACTION
:
ICON HEALTH AND FITNESS, INC., :
: No. 05-54 Erie
and :
:
SEARS, ROEBUCK AND COMPANY, :
Defendants

MINOR PLAINTIFF'S PRE-TRIAL NARRATIVE STATEMENT

AND NOW, comes the Plaintiff, by and through his attorneys, **Nicholas, Perot, Smith, Koehler & Wall, P.C.**, and files this Pre-Trial Narrative Statement, pursuant to Local Rule 16.1.4.A, the content of which is as follows:

1. NARRATIVE STATEMENT OF THE FACTS

On January 18, 2003, minor Plaintiff Ryan C. Ford, 5 years old at the time, was down in the basement of his home with his father, Plaintiff Robert Ford. Mr. Ford was setting up some exercise equipment he had previously purchased and used but was now stored in the basement. This included the Defendant Icon Health and Fitness, Inc.'s, Pro-Form R-930 Space Saver Rider, a type of exercise bike. The Rider had been purchased by Plaintiff's Robert and Mae Ford from Defendant Sears on February 2, 1997.

Unbeknownst to the Plaintiffs, the Rider was recalled by the United States Consumer Product Safety Commission on July 14, 1997. It was specifically recalled because of a defect "when the handle bar was pulled against the seat during use, the machine unexpectedly closed into the storage position causing injuries." CPSC Release #97-158. There was no evidence that the parents were ever informed of the recall or provided with a retrofit device.

While his father was setting up another piece of exercise equipment, minor Plaintiff began to ride on the Space Saver Rider. When his father turned around to look, the bike had collapsed pinning Ryan between the handle bars and the seat. Ryan was lifeless and blue. Robert Ford tried frantically to free his young son but found that the handle bars would not pull forward from the seat. It was only when he lifted the seat up into the air that he discovered the handle bars could be removed from his son's chest.

Robert Ford immediately began running up the basement steps with his unconscious son. He yelled to his wife, Plaintiff Mae Ford, and she began doing a chest rub on Ryan. Ryan then began to gasp for air and regain consciousness. The paramedics arrived and rushed Ryan to Hamot Medical Center. He was then transported via Life Star helicopter to Children's Hospital that same night. Ryan spent 3 nights at Children's Hospital for anoxic encephalopathy, traumatic asphyxia and chest wall compression.

Since his release from the hospital he has had extensive follow up care which is set forth more extensively in the expert medical reports attached hereto. Despite the significance of the original injury and the emotional trauma he sustained, Ryan has made a remarkable recovery. He still appears to have some emotional concerns. Medical testimony presented at trial will provide a complete picture of his near death experience and recovery.

2. DAMAGES

As a result of the traumatic asphyxia and anoxic encephalopathy, the minor Plaintiff Ryan Ford suffered serious and permanent injuries as set forth more extensively in the expert medical reports attached hereto. As such, minor Plaintiff has sustained physical pain and mental suffering as a result of the Defendants defective product.

Medical Expenses

Highmark Blue Shield Subrogation Lien	\$16,464.05
Pennsylvania Department of Public Welfare Subrogation lien	\$60.72
TOTAL MEDICAL EXPENSES	\$16,524.77

Other Special Damages

Past, present, and future physical pain	\$ To be determined by the Jury
Past, present, and future mental suffering	\$ To be determined by the Jury
TOTAL DAMAGES:	\$16,524.77 and an amount to be determined by the Jury

3. WITNESSES

The Plaintiff reserves the right to call any and all of the following witnesses as to liability and damages unless otherwise noted:

1. Minor Plaintiff Ryan C. Ford, 8723 West Ridge Road, Erie, PA 16417.
2. Plaintiff Robert Ford, 8723 West Ridge Road, Erie, PA 16417.
3. Plaintiff Mae Ford, 8723 West Ridge Road, Erie, PA 16417.
4. Plaintiff Gary Goodemote, 3602 Scarboro Road, Erie, PA 16506.
5. Laurel Jensen, c/o Icon Health and Fitness (Liability).

6. Barbara Gaines, M.D., 3705 Fifth Avenue, Pittsburgh, PA 15213 (Damages).
7. Robert E. Wilson, M.D., Ph.D., 1910 Sassafras Street, Erie, PA 16502 (Damages).
8. Christine Brown, M.D., 1700 Peach Street, Suite 200, Erie, PA 16501 (Damages).
9. Mitchell Humphrey, M.D., 7287 Main Street, Fairview, PA 16415 (Damages).
10. Gerald D. Hickin, Jr., Paramedic, c/o West County Paramedics, 6852 Meadville Road, Girard, PA 16417.
11. Peter M. Intrieri, M.D., c/o Hamot Medical Center, 201 State Street, Erie, PA 16550.
12. Hamot Recovery Nurse Crutchie, R.N., c/o Hamot Medical Center, 201 State Street, Erie, PA 16550.
13. Hamot Trauma Nurse J. Mauttau, R.N. c/o Hamot Medical Center, 201 State Street, Erie, PA 16550.
14. Nicholas Sala, D.O., 2201 West 38th Street, Erie, PA 16506 (Damages).
15. A representative of Children's Hospital, 3705 Fifth Avenue, Pittsburgh, PA 15213 (Damages).
16. A representative of Hamot Hospital, 201 State Street, Erie, PA 16550 (Damages).
17. A representative of Shiner's Hospital for Children, 1645 West 8th Street, Erie, PA 16505 (Damages).
18. Lisa Murphy, minor Plaintiff's aunt, Girard, PA 16417 (Liability).
19. Mary Kay Borkowski, c/o Girard School District, 1100 Rice Avenue, Girard, PA 16417 (Damages).
20. Bonnie Stelter, c/o Girard School District, 1100 Rice Avenue, Girard, PA 16417 (Damages).
21. Jennifer Bloomster, c/o Girard School District Girard School District, 1100 Rice Avenue, Girard, PA 16417 (Damages).
22. Kim Duda, c/o Girard School District, 1100 Rice Avenue, Girard, PA 16417 (Damages).
23. Nicole Drayer Girard School District, 1100 Rice Avenue, Girard, PA 16417 (Damages).

24. Michael Trudnowski, c/o Girard School District, 1100 Rice Avenue, Girard, PA 16417 (Damages).
25. Christina Antolik, c/o Girard School District, 1100 Rice Avenue, Girard, PA 16417 (Damages).
26. Becky Wagner, c/o Northwest Tri-County Intermediate Unit #5, 2525 Waterford Street, Edinboro, PA 16412 (Damages).
27. Lori Robinson, c/o Northwest Tri-County Intermediate Unit #5, 2525 Waterford Street, Edinboro, PA 16412 (Damages).
28. Christina Antolik, c/o Girard School District, 1100 Rice Avenue, Girard, PA 16417 (Damages).
29. Brenda Gestecki, M.A., c/o Achievement Center, 101 East Sixth Street, Erie, PA 16507 (Damages).
30. Jennifer Musolff, c/o Gertrude A. Barber Center, Inc., 100 Barber Place, Erie, PA 16507 (Damages).
31. Lyle Johnson, c/o Icon Health and Fitness (Liability).
32. Damon Fedor, c/o Icon Health and Fitness (Liability).
33. Todd Peterson, c/o Icon Health and Fitness (Liability).
34. Blake Smith, c/o Icon Health and Fitness (Liability).
35. Brad Noles, c/o Icon Health and Fitness (Liability).
36. A representative of Highmark Blue Cross Blue Shield.
37. A representative of Pennsylvania Department of Welfare.
38. Any witness listed in Defendant's Pre-Trial Statement.

4. EXPERT WITNESSES

The Plaintiff reserves the right to call any and all of the witnesses listed below:

Medical

1. Barbara Gaines, M.D., 3705 Fifth Avenue, Pittsburgh, PA 15213. (Dr. Gaines' report of March 28, 2006 is attached hereto as Exhibit A). (Dr. Gaines' Curriculum Vitae is attached hereto as Exhibit B). (Dr. Gaines' videotaped deposition will be taken and will be presented at the time of trial).
2. Robert E. Wilson, M.D., Ph.D., 1910 Sassafras Street, Erie, PA 16502. (Dr. Wilsons' report of July 24, 2006 is attached hereto as Exhibit C). (Dr. Wilsons' Curriculum Vitae is attached hereto as Exhibit D). (Dr. Wilsons' videotaped deposition will be taken and will be presented at the time of trial).
3. Christine Brown, M.D., 1700 Peach Street, Suite 200, Erie, PA 16501. (Dr. Brown's report of August 28, 2006 is attached hereto as Exhibit E). (Dr. Brown's Curriculum Vitae is attached hereto as Exhibit F). (Dr. Brown's videotaped deposition will be taken and will be presented at the time of trial).
4. Mitchell Humphrey, M.D., 7287 Main Street, Fairview, PA 16415. (Dr. Humphrey's report of August 11, 2006 is attached hereto as Exhibit G). (Dr. Humphrey is not in possession of a current Curriculum Vitae). (Dr. Humphrey's videotaped deposition will be taken and will be presented at the time of trial).
5. Peter M. Intrieri, M.D., c/o Hamot Medical Center, 201 State Street, Erie, PA 16550. (Dr. Intrieri's report of January 18, 2003 is attached hereto as Exhibit H). (Dr. Intrieri's Curriculum Vitae will be provided upon receipt). (Dr. Intrieri's videotaped deposition will be taken and will be presented at the time of trial).

Engineering

1. Dr. Howard P. Medoff, Ph.D., P.E., 1600 Woodland Road, Abington, PA 19001. (Mr.

Medoff's report of August 30, 2006 is attached hereto as Exhibit I). (Mr. Medoff's Curriculum Vitae is attached hereto as Exhibit J). Mr. Medoff will testify live at trial.

5. EXHIBITS

The Plaintiff reserves the right to use the following Exhibits at time of trial:

1. The Pro-Form R-930 Space Saver Rider.
2. U.S. Consumer Product Safety Commission News Release of 7/14/97.
3. Defendant Icon's Documentation, including
 - a. Icon telephone call notes of 1/22/03;
 - b. Icon Change Request Forms of 10/2/96, and 10/10/96;
 - c. Sears, NPS - Display Pending Service Order documents of 1/24/05;
 - d. Icon Pro-Form R-930 User's Manual;
 - e. Icon Pro-Form R-930 Patent documents;
 - f. Icon Cardio Specification Sheet;
 - g. Icon Development Test Reports; and
 - h. Icon Customer List.
4. Photographs of Rider
5. Medical records and bills of minor Plaintiff Ryan Ford including records and bills from:
 - a. Children's Hospital and Barbara Gaines, M.D., 3705 Fifth Avenue, Pittsburgh, PA 15213;
 - b. Robert E. Wilson, M.D., Ph.D., 1910 Sassafras Street, Erie, PA 16502;
 - c. Christine Brown, M.D., 1700 Peach Street, Suite 200, Erie, PA 16501;
 - d. Mitchell Humphrey, M.D., 7287 Main Street, Fairview, PA 16415;
 - e. Gerald D. Hickin, Jr., Paramedic, c/o West County Paramedics, 6852 Meadville Road, Girard, PA 16417;

- f. Peter M. Intrieri, M.D., and Hamot Medical Center, 201 State Street, Erie, PA 16550;
- g. Life Star Ambulance;
- h. Shiners Hospital for Children;
- i. Nicholas Sala, D.O., 2201 West 38th Street, Erie, PA 16506;
- j. Pennsylvania Department of Public Welfare; and
- k. Highmark Blue Cross Blue Shield.

6. School records of minor Plaintiff, including:

- a. Girard School District/Elk Valley Elementary;
- b. Northwest Tri-County Intermediate Unit #5;
- c. Achievement Center; and
- d. Community Integration, Inc.

7. Expert medical reports and Curriculum Vitae of:

- a. Barbara Gaines, M.D.;
- b. Robert E. Wilson, M.D., Ph.D.;
- c. Christine Brown, M.D.;
- d. Mitchell Humphrey, M.D.;
- e. Peter M. Intrieri, M.D.

8. Deposition transcripts of the following:

- a. Plaintiff Robert Ford, taken on 6/28/06;
- b. Plaintiff Mae Ford, taken on 6/28/06;
- c. Plaintiff Gary Goodemote, taken on 6/28/06;
- d. Laurel Jenson, taken on 6/28/06;

9. Plaintiff and Defendant Pleadings;

10. Defendant's Answers to Interrogatories and Request for Production of Documents, First and Second Set;

11. Expert report and resume of Dr. Howard P. Medoff, Ph.D., P.E.;

12. Demonstrative Model;

13. Any Exhibit listed in Defendant's Pre-Trial Statement.

6. UNUSUAL LEGAL ISSUES:

_____ This case involves negligence, strict liability and breach of warranty claims. It also involves whether minor Plaintiff's parents are contributorily negligent and the issue of joint and several liability.

7. EXPERT DISCLOSURES:

_____ 1. Dr. Howard P. Medoff, Ph.D., P.E., 1600 Woodland Road, Abington, PA 19001. (Mr. Medoff's report of August 30, 2006 attached hereto as Exhibit K). (Dr. Medoff's Curriculum Vitae is attached hereto as Exhibit L). Dr. Medoff will testify live at trial.

8. MEDICAL EXPERT DISCLOSURES:

1. Barbara Gaines, M.D., 3705 Fifth Avenue, Pittsburgh, PA 15213. (Dr. Gaines' report of March 28, 2006 is attached hereto as Exhibit A). (Dr. Gaines' Curriculum Vitae is attached hereto as Exhibit B). (Dr. Gaines' videotaped deposition will be taken and will be presented at the time of trial).
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AMENDMENT

Plaintiff reserves the right to amend this Pre-Trial Narrative before time of trial.

Respectfully submitted,

NICHOLAS, PEROT, SMITH, KOEHLER & WALL

BY _____

Michael J. Koehler, Esquire
Pa. ID# 56195
2527 West 26th Street
Erie, Pennsylvania 16506
(814) 833-8851
Counsel for Plaintiffs

Date _____

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RYAN C. FORD, a Minor, by and through :
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Plaintiffs :
v. : CIVIL ACTION
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ICON HEALTH AND FITNESS, INC., :
: No. 05-54 Erie
and :
:
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Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of August, 2006 the foregoing Plaintiffs' Pre-Trial Narrative was served upon the following by hand delivery with all applicable rules of court:

The Honorable Sean J. McLaughlin
United States Courthouse
Room A 250
17 South Park Row
Erie, PA 16501

Henry Sneath, Esquire
Picardi, Sneath, Miller & Norton, P.C.
4710 US Steel Tower
600 Grant Street
Pittsburgh, PA 15219

Christine Nacopoulos, Esquire
349 West 6th Street, Suite 1
Erie, PA 16507

Respectfully submitted,

NICHOLAS, PEROT, SMITH, KOEHLER & WALL

BY

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